

self-esteem. These professionals have officially confirmed these facts. They say the number of women adversely affected by abortions cannot be overlooked by the medical community.

In looking at this in our own family situation, every one of our children is incredibly precious. If I think of one of them not being there, it is one of those stunning sort of thoughts of despair, and yet to think of the 40 million who aren't here and of the stunning amount of despair there must be in a number of people's lives and hearts as they think, I made that decision fast, or I did that under a lot of pressure, or I didn't think I had another choice. But other choices did exist. People want to adopt, and people want to adopt Down syndrome children. As TED KENNEDY and I recognized, in my bill we got passed last year on prenatally and postnatally diagnosed diseases, which established a list of people who wanted to adopt Down syndrome children or children with special needs—some people look at a child in that situation and say, I can't handle that, and I understand. But there are people who believe they can handle it and they want to take a child and raise it.

So I hope as we look forward, we will work together and say, this is something that shouldn't be happening the way it is in the United States and we want to make it different. I hope we will recognize these young people who are marching out here now, who are hoping for change, and understand the change they want is quite valuable, it is beautiful, it is life affirming, and that ultimately it is going to happen.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMY

Mr. DURBIN. Mr. President, this is truly a historic week in Washington. Those of us who were among the millions who were on the Mall a few days ago witnessed a moment in history which I am sure we will talk about, and future generations will refer to, for a long time. Someone during the course of this lead-up, the few days of preinaugural activities, said it was the third chapter in America's social history.

The first chapter was when Thomas Jefferson announced, then wrote, that all men were created equal, endowed by their creator with certain inalienable rights, but living in a time when even in his own household there was slavery. That was the first chapter. In the second chapter, they referred to, of course, Abraham Lincoln, who said it

is worth blood and war to fight for this right of equality and to preserve this union dedicated to that principle. And, of course, what happened this Tuesday was the third chapter, a graphic validation of the fact that America has made dramatic progress toward equality.

There is so much more to do, and I am particularly honored that the man who now leads our Nation is one whom I served with as a colleague in the Senate, a person I encouraged to run, and a person who I think has grown immeasurably to the position he has reached today.

America has so much faith in Barack Obama and what he can bring, but he is the first to caution us that we face unparalleled challenges. You have to go back 75 years to Franklin Delano Roosevelt, who came to the Presidency in the midst of the Great Depression, when the economic plight of the United States was even worse than today. People had lost hope, they had lost their savings, and they had lost their jobs. There was gloom across America. That man, with braces on his legs, staggering to the podium, brought a new confidence to the American people. He began a turnaround that literally took years but eventually succeeded in restoring the faith and the economy of America.

When Barack Obama took to the podium just last Tuesday to give his inaugural address, his message was reminiscent, telling America that we are facing difficulties that will require our best efforts on a bipartisan basis. We have to work together. All of the division in this Chamber and across Capitol Hill notwithstanding, the American people are tired of it. They expect us to come here and achieve something. They understand the momentous challenge we face.

President Obama spoke 2 days ago of gathering clouds and raging storms. He said we are in the midst of a crisis, and he spoke about our Nation at war on two fronts and our economy in disrepair.

Yesterday, I think we took an important step forward in addressing one of those challenges. It was the right, under the Senate rules, of the minority side to ask for a rollcall on the appointment of Senator Clinton as our new Secretary of State. I understand that and I respect it. I believe the fact that they allowed that rollcall to be brought to the floor in a timely basis is consistent with this new attitude that we will not give up the traditions of Congress, the traditions of our Government, but will understand that we face a special urgency in dealing with issues. The vote last night on the Senate floor was 94 to 2 in favor of the confirmation of Hillary Clinton as our next Secretary of State. I am so happy she is going to have that responsibility, and I know she will do an excellent job.

Today, President Obama has asked us to take up a measure of similar urgency. It is a measure known as the

Lilly Ledbetter Fair Pay Act. You may have heard some of the debate on the floor, and the debate has been an important one. I do not question those who oppose this. I understand that they do not favor discrimination. But I have to say that I disagree with them.

We, those of us who I believe will show a majority vote for this measure, believe that when there is discrimination in the workplace, whether it is in pay or age or gender discrimination, that is not American, that is not consistent with our values, and that the person who is wronged, the person who is the victim should have an opportunity to come to court for justice.

The Lilly Ledbetter case is a classic illustration. This woman, working in a Goodyear tire plant in Gadsden, AL, after 15 years, nearing retirement, in the management ranks, came to learn she had been underpaid for the same job the males at her establishment were being paid more. Naturally, when she learned this, after years of doing the same work for less pay, she believed it was unfair. I did too. Anyone would. She took her case to court asking for compensation, asking that the company pay for their discrimination.

The case went through the courts and eventually ended up across the street at the U.S. Supreme Court, and they came up with a decision which was nothing short of incredible. They said that from the first moment when the first discriminatory paycheck was given to Lilly Ledbetter, she had 180 days to file a claim. That overlooks the obvious: People who work in private sector jobs don't know the pay of the person at the next desk in a position similar to their own. It is not published. There is no way they would know it. In this case, to hold Lilly Ledbetter to an unreasonable standard to filing this case so quickly after the first discrimination is to overlook the obvious. The discriminatory activity continued beyond that first paycheck, and Lilly Ledbetter, when she brought this case, brought it within 180 days of the discovery of this discrimination. What we are doing through the leadership of Senator MIKULSKI is to finally right this wrong, and President Obama has asked us to send this to his desk. I hope we do it and do it quickly.

Then we are going to shift to an even larger undertaking as we work to address the troubles of our economy. We have to do this boldly and quickly—no excuses. It is a grim beginning for that administration in the fields of jobs, health care, and housing. Rarely has a new President been immediately confronted with an economic situation so grim.

This is just a sampling of the headlines, the job cut headlines, across the United States of America from Washington; St. Louis; Portland, OR; Hartford, CT; Detroit—all across the United States. We know these stories. Americans continue to wake up to headlines like these every day—another company decides to lay off or close.

Then, of course, we know what this toll means to us in terms of daily statistics. This is another one of these statistics which are hard for us to absorb; to think that 17,000 Americans will learn today that they have lost their job, and 17,000 tomorrow, and 17,000 the day after. That is what happened in December—over 500,000 Americans lost their jobs, and sadly, they think in this month of January the number may be 600,000. At the same time, 11,000 Americans lost their health care coverage. They were told the company is in trouble, sales are not good, the people who run the company are going to have to cut back on benefits. Health care, one of the more expensive benefits, is one of the first to go. Mr. President, 17,000 out of work, 11,000 lost their health care. But then another 9,000 will go home and open the mail and be told they are facing foreclosure, they are about to lose their home. Think about that—17,000 losing their jobs, 11,000 losing their health insurance, and 9,000 losing their homes. You can understand the gravity of the economic crisis that faces us.

We are in the midst of one of the greatest economic crises since the Great Depression. For the middle class, working Americans, the current situation is hard to bear because they have gained so little over the past 8 years. It is not as if you are losing a job that was giving you a paycheck that allowed you to keep up with the pace of the cost of living. For the last 8 years, the average American family smack dab in the middle of the middle class has been falling further and further behind. We know why. For a time, the cost of gasoline was up over \$4 a gallon. We know the cost of utilities has gone up, the cost of daycare, the cost of health care, and wages have not kept pace. While some have pronounced prosperity over the last 8 years, the reality is that for real families facing the real world, prosperity has not been there despite their best efforts, and they have fallen further and further behind.

Eight years ago, we celebrated the turn of a new millennium with hope and optimism. Most people believed they and their children would be better off in the future. Those hopes have been shaken.

Unemployment has risen from 5.6 million people—that was 3.9 percent in December of 2000—to over 11 million people today, 7.2 percent. That is a doubling of the number of unemployed people over the course of the last administration. Mr. President, 5.5 million more Americans are unemployed today at the dawn of the 21st century.

Median or middle household income for working-age households—those headed by someone under the age of 65—has actually decreased over the last 8 years by \$2,000 adjusted for inflation. For those in the middle class who still have a job, workers are earning less for every hour they contribute.

The number of Americans not covered by health insurance has increased

from over 38 million people—13.7 percent of our population—in 2000 to over 45 million people—15.3 percent of our population—in 2007, and the number obviously will grow when the statistics are reported for 2008. At least 7 million more Americans are uninsured than at the beginning of the decade.

In the year 2000, we first heard the phrase “subprime mortgage” spoken on the floor of the Senate and around our Nation. The boom and bust of irresponsible lending since that time has left us with a record number of foreclosures across America. In just the last 2 years, individual foreclosure filings have risen 226 percent.

I have looked at maps of the great city of Chicago which I am honored to represent. Many people who travel know Midway Airport. Midway Airport is surrounded by bungalows—which is kind of a traditional house for the city of Chicago—neat little brick bungalows, one after the other, that people are so proud to have. You see the backyards with the little swimming pools, the above-ground pools, as you fly into Midway, and the well-kept lawns. Many of these families are second or third generation, from Ireland and Poland and all over the United States. They come into this area because middle-class families see this as a great place to live and work in the city of Chicago.

Then somebody showed me a map. They took the ZIP code around this Midway Airport and they put in little red dots for every home under foreclosure in each block. There were maybe four or five blocks that did not have a home in foreclosure in that solid, middle-class neighborhood in the middle of the city of Chicago. It clearly is a situation almost out of control.

Some of the experts, such as Credit Suisse, predict that between 8.1 million and 10 million American families will lose their homes in the next 4 years.

I will just tell you point blank, I do not think we can come to grips with this recession, that we can really turn this economy around, until we do something bold, dramatic, and comprehensive about mortgage foreclosures. We have waited patiently for too long. We kept saying to the banks: We know you are going to lose a fortune when a home goes into foreclosure. Do the bankers want to start cutting the grass? Do they want to start making sure the place looks good for a real estate showing? Of course not. They are in the financial business. We say: Why doesn't the banking business step up and start to renegotiate the mortgages so people have a fighting chance?

I got on a plane flying back to Chicago just 2 weeks ago, and a flight attendant said: Senator, I need to talk to you. She came over and knelt down in the aisle next to me once the flight was underway and said: I want to tell you my story. I am a single mom. I have three kids, two in high school. I live in a suburb of Chicago. This is my job. It

has been tough. Airlines have struggled, wages have not increased. But I keep coming to work because this is how we keep our family together. I am underwater with my mortgage.

Do you know what that means? That the value of her home currently is less than the principal balance of her mortgage. She is underwater.

She said: I am paying over 6 percent on my mortgage, and if I do not get this mortgage interest rate lower, I don't know what to do. Senator, what should I do?

You know, I can give her advice but not very good advice. I can tell her: If you go into foreclosure, maybe the bank will come in and talk to you, maybe you can renegotiate the mortgage. If you go any further along, though, who knows. You may end up losing the house and your kids will be out in the street.

That is the literal truth of life for many people in America. We have to do something about that. We have waited so long for the banks to get it together, to renegotiate these mortgages, and it has not happened.

I like Henry Paulson, our former Secretary of the Treasury. I really do. He has been a good friend, and I know he has tried through a crisis. But every time I bring this up to him, he says: We are going to try to do it on a voluntary basis. But it has not worked. He set up a plan called HOPE, and the plan was supposed to encourage banks to renegotiate mortgages. They said: Our goal is 400,000 mortgages are going to be renegotiated. At the end of the day, fewer than 400 were renegotiated.

We have to do more and, sadly, we are not. I hope we address this and address it soon.

I see the minority leader, the Republican leader is on the floor, and I know he wanted to speak at 10, so I am going to bring these remarks to a close by just saying this. We have to act and act quickly. We have to act together, Democrats and Republicans. We cannot do this alone. All Democratic votes cannot reach the magic number of 60 in the Senate Chamber. We need to hope that some of the Republicans who understand the gravity of this economic crisis in their own States and in our Nation, who understand the need to move quickly—which we hear from, basically, economists of all political stripes and backgrounds—who stood and listened to our new President challenge us to step up and act and act quickly—we need to hope they will join with us.

Then, in return, we have a responsibility in the majority, as President Obama has said, to listen to constructive suggestions and ideas, to try to put together a package that represents the best of Democratic thinking, the best of Republican thinking. That is what I heard then-President-elect Obama say to Senator McCONNELL at a meeting we had just a few weeks ago.

It is in that spirit, with that approach, that I think we can start to

solve these problems. But we have to get moving on it. We have to do it now. We have to do it with a sense of urgency.

Senator REID, the Democratic majority leader, has said that before we leave in the middle of February—I think the date is February 14—we need to pass this economic recovery and re-investment plan. That means rolling up our sleeves and getting down to business. I know we can do it. I know the American people expect nothing less from this Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Republican leader is recognized.

LILLY LEDBETTER FAIR PAY ACT

Mr. MCCONNELL. Mr. President, we have heard a lot of debate over the past few days on the question of fairness. Every Member of this body supports equal pay for equal work. I could not find anybody who does not support that.

But this so-called Ledbetter bill is a trial lawyers' bailout. It is not about fair pay.

Pay discrimination has been illegal since 1963. Let me say that again. Since 1963. This bill is about effectively eliminating the statute of limitations on pay discrimination. It unfairly targets business owners who, in many cases, will no longer have the evidence they will need to mount a just defense.

As we all know, job creators have enough to worry about these days. We should not add the threat of never-ending lawsuits. Republicans have a better idea to ensure fairness in the workplace. Senator HUTCHISON has crafted a commonsense proposal that says the clock should not run out on someone who has been discriminated against until he or she discovers the alleged discrimination. That is fair to both sides.

If we are going to grow our economy, we need to focus on legislation that will create jobs, not put undue hardships on job creators. So we will have an opportunity to vote on the Hutchison amendment, which is absolutely fair to anyone who has been discriminated against in the workplace but also does not create a plaintiffs' lawyer bailout, which is what is at stake if we pass this bill without the Hutchison amendment.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, we are now in the 1 hour that has been determined to be equally divided to conclude the debate on the Hutchison

amendment to the Lilly Ledbetter Fair Pay Act. It is the intention for us to be able to conclude the bill today, and we want to thank our colleagues for their cooperation in offering amendments, and we are willing to debate them.

We have heard much debate already—Mr. President, in our enthusiasm to move ahead, I neglected to say that we yield back our time in morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time is yielded back. Morning business is closed.

LILLY LEDBETTER FAIR PAY ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate shall resume consideration of S. 181, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 181) to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

Pending:

Hutchison amendment No. 25, in the nature of a substitute.

Specter amendment No. 26, to provide a rule of construction.

Specter amendment No. 27, to limit the application of the bill to discriminatory compensation decisions.

Enzi amendment No. 28, to clarify standing.

Enzi amendment No. 29, to clarify standing.

The PRESIDING OFFICER. Under the previous order, there will be now be 60 minutes of debate equally divided between the Senator from Texas, Mrs. HUTCHISON, and the Senator from Maryland, Ms. MIKULSKI, or their designees.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Well, thank you very much, Mr. President. It was in my enthusiasm that I neglected a few parliamentary housekeeping tasks.

On April 23, when we had the vote in the Senate to vote on the Lilly Ledbetter Fair Pay Act, we lost it by two votes. On that day, I said we would continue our fight and that we needed to—we the women of America and the men who supported us—square our shoulders, suit up to fight for a new American revolution. I called upon the other women of America to put their lipstick on and be ready to go. Well, today is “go day.” And we are actively debating this amendment.

One of the arguments that is often made is that this Fair Pay Act we are

advocating could trigger either needless and enormous volumes of lawsuits or it creates a shifting ball of the statute of limitations. Both of those criticisms are false.

First, the Lilly Ledbetter Fair Pay Act will not trigger more lawsuits. Because this bill the Democrats are advocating—and, oh, by the way, it is a bipartisan bill. We have over 54 cosponsors; Republicans are joining with us. It does not in any way trigger enormous lawsuits, because it simply restores the law, with greater clarity, that existed before the outrageous Supreme Court decision.

We were not flooded with volumes of lawsuits on wage discrimination. There was an orderly process that occurred.

The other is this floating statute of limitations argument. Well, that is a foggy term. But I tell you what is foggy is the Hutchison amendment.

Now, I so admire the gentlewoman from Texas. We have worked together, as I said, on many issues. I know her intentions are good, but her language is flawed. I should say, not her language, but the language of her amendment. It is foggy.

Let me go on to this a little bit. The amendment does not address the fundamental problem of the pay discrimination case, Ledbetter v. Goodyear, which created unreal and strict limitations for filing pay discrimination claims. It also fails to recognize that pay discrimination, unlike other kinds of discrimination, is repeated each time a worker receives an unfair paycheck.

I want to repeat that. The Hutchison amendment fails to recognize that pay or wage discrimination, unlike other forms of discrimination, is repeated each time someone receives an unfair paycheck. Instead, the Hutchison amendment creates a new confusing standard that requires workers to either be subject to the Ledbetter rule or prove they had no reasonable suspicion of discrimination when the employer first decided to pay them.

Well, you have to prove a negative. That is almost impossible. From the day you walk onto the job or the day your coworker who gets a raise, when the guys get it and the girls do not, you would have to be snooping around and creating a very hostile workplace, branded a troublemaker, because you were saying, well, you would have to every week say, well, what did you get paid, Mr. UDALL? What did you get paid, Mr. TESTER? What did you get paid?

Well, I know we get paid the same pay, and I know we are doing the same, equal work. But that is not true in the workplace. So we believe the Hutchison amendment actually creates more fog than solutions.

I want to continue the debate on this. I note that the gentlewoman from Texas has not come in, but I see the gentleman from South Carolina.

Mr. GRAHAM. Mr. President, I wish to speak on her time.